

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FLAMINGO LLC,

Plaintiff

v.

WENDY'S OLD FASHIONED
HAMBURGERS OF NEW YORK, INC.,

Defendant.

Case No. 11-cv-4862 (CM) (JCF)

**DEFENDANT WENDY'S OLD FASHIONED HAMBURGERS OF NEW YORK, INC.'S
COUNTER-STATEMENT TO PLAINTIFF FLAMINGO LLC'S AMENDED
STATEMENT OF UNDISPUTED FACTS PURSUANT TO LOCAL RULE 56.1 IN
SUPPORT OF ITS CROSS MOTION FOR SUMMARY JUDGMENT**

Douglass B. Maynard
Jacqueline G. Yecies
AKIN GUMP STRAUSS HAUER & FELD LLP
One Bryant Park
New York, New York 10036
(212) 872-1000
dmaynard@akingump.com
jyecies@akingump.com

*Attorneys for Defendant Wendy's Old Fashioned
Hamburgers of New York, Inc.*

Pursuant to Rule 56.1 of the Local Civil Rules of the United States District Court for the Southern District of New York, Defendant Wendy's Old Fashioned Hamburgers of New York, Inc. ("Wendy's") states that it does not controvert any of the facts (#1-132) set forth in Plaintiff Flamingo LLC's Amended Statement of Undisputed Facts Pursuant to Local Rule 56.1 In Support of Its Cross Motion for Summary Judgment ("Plaintiff's Amended Rule 56.1 Statement.") Defendant Wendy's notes for the Court's consideration that the facts (#1-132) set forth in Plaintiff's Amended Rule 56.1 Statement are identical to the Stipulated Facts listed in the parties' Joint Pre-Trial Order (Docket #26), filed with the Court on April 30, 2012.

DATED: New York, New York
June 26, 2012

/s/ Douglass B. Maynard
Douglass B. Maynard
dmaynard@akingump.com
Jacqueline G. Yecies
jyecies@akingump.com
AKIN GUMP STRAUSS HAUER & FELD LLP
One Bryant Park
New York, New York 10036

*Attorneys for Defendant Wendy's Old Fashioned
Hamburgers of New York, Inc.*